

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CAPITAL PURE ASSETS, LTD.,
 Plaintiff(s),
 v.
 CC TECHNOLOGY CORPORATION,
 Defendant(s).

Case No. 2:24-cv-00680-NJK

ORDER

Pending before the Court is Counterclaimant's motion for preliminary injunction, Docket No. 22, and Counterclaimant's motion to compel deposit of funds, Docket No. 23.

On September 12, 2024, the Court ordered the parties to confer on whether to stipulate to depositing the subject escrow funds with the Clerk's Office, and to file a corresponding joint status report. Docket No. 36 at 2. The parties have not agreed to such a stipulation. In the corresponding joint status report, Counter-Defendants attempt to bolster their skeletal position in the motion practice¹ with new argument and a new objection. *See* Docket No. 38 at 2-4. Quite obviously and as argued by Counterclaimant, Docket No. 38 at 6, a post-briefing *status* report is not a proper vehicle for raising new arguments regarding the underlying motions, *see in re REMEC Inc. Securities Litig.*, 702 F. Supp. 2d 1202, 1222 (S.D. Cal. 2010); *see also Brathwaite v. Southwest Med. Assocs., Inc.*, 2024 WL 7870704, at *4 n.6 (D. Nev. Jan. 24, 2024); *Sifuentes v. Brema Invs., LLC*, 2018 WL 3421386, at *2 (S.D. Tex. June 27, 2018). In addition, Counter-Defendants' new Rule 408 objection to information addressed in the motion was waived by not timely raising it in

¹ Counter-Defendants' position in their opposition to the motion to compel deposit of funds consists of one paragraph with six sentences. *See* Docket No. 26 at 11-12.

1 responding to the motion. *See* Fed. R. Evid. 103(a)(1)(A) (requiring that a party “*timely* objects
2 or moves to strike” (emphasis added)).²

3 In light of the above, the Court declines to consider the substance of Counter-Defendants’
4 new arguments and objection raised in the status report because they were not timely and properly
5 presented.

6 IT IS SO ORDERED.

7 Dated: September 19, 2024

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Nancy J. Koppe
United States Magistrate Judge

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24 ² Counter-Defendants’ new Rule 408 objection is also waived for another reason: Counter-
25 Defendants themselves rely on these same settlement discussions. *See, e.g.*, Docket No. 26 at 11
26 (Counter-Defendant’s responsive brief representing that “Counter-defendants have already clearly
27 demonstrated that they have \$336,000 for reimbursement, as demonstrated by (1) the fact that CPA
28 offered to reimburse CCTC the sum of \$324,240 in March of 2024; and (2) Shiva’s Declaration
attached hereto which reiterates that Counter-defendants are willing to reimburse CCTC with the
funds if the proper release language is included”). It is well-settled that a party’s own reliance on
settlement discussions waives any Rule 408 objection they have regarding such information. *See,*
e.g., JIPC Mgmt., Inc. v. Incredible Pizza Co., 2009 WL 8591607, at *27 (C.D. Cal. July 14, 2009)
(collecting cases).